

**REMARKS/ARGUMENTS**

Claims 1-8 and 10-30 are pending in this application. By this Amendment, claims 1-3, 5, 8, 10-12, 15, 20-22 and 24 are amended, claim 9 is canceled and claims 27-30 are added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

A. The Office Action objects to claims 1-15, 20 and 22 for informalities. Applicants respectfully submit the above amendments obviate the grounds for the objection. Withdrawal of the objection to claims 1-15, 20 and 22 is respectfully requested.

B. The Office Action rejects claims 2-3, 9 and 24 under 35 U.S.C. §112, second paragraph. Applicants respectfully submit the above amendments obviate the grounds for the rejection. Withdrawal of the rejection to claims 2-3, 9 and 24 under 35 U.S.C. §112 is respectfully requested.

C. The Office Action rejects claims 1-26 under 35 U.S.C. §102(a) over U.S. Patent No. 6,049,798 to Bishop et al. (hereafter “Bishop”). The rejection is respectfully traversed.

With respect to the pending claims, Applicants respectfully submit that Bishop fails to disclose every claimed feature as required under §102. For example, with respect to claim 1, Bishop fails to disclose reading execution time of threads during a predetermined timer time interval and adding the execution time values for each thread that is not a system thread and combinations thereof as recited. With respect to claim 15, Applicants respectfully submit Bishop does not disclose reading an execution time of threads over a time interval, adding the execution

times of threads that are not a system thread to obtain a grand total, reading a total execution time for a previously stored thread and combinations thereof as recited.

The Office Action asserts column 6, lines 1-35 disclose such features with respect to claims 1 and 15. Applicants respectfully disagrees. In contrast, column 6, lines 1-35 disclose a method for determining memory use and in particular RAM utilization. Thus, Applicants respectfully submit that the disclosure for determining memory use does not teach or suggest features recited in claims 1 and 15 directed to CPU utilization.

Bishop discloses determining CPU activity. See column 2, lines 27-39, column 3, lines 47-50 and column 10, line 50-column 11, line 10 of Bishop. Applicants respectfully submit that Bishop's disclosure of determining CPU idle time include comparing a number of tasks a thread performed compared with a hypothetical number of tasks that could have been performed and assigning a process to the lowest priority level in the system and tracking the amount of time the lowest priority process is executing in the system. See column 2, lines 27-39 and column 10, line 50-column 11, line 10 of Bishop. Thus, Applicants respectfully submit Bishop does not disclose or suggest at least a feature of reading execution time values of threads during a predetermined timer time interval and adding execution time values for each thread that is not a system thread and combinations thereof as recited in claim 1. Further, Applicants respectfully submit Bishop teaches away from Applicants' recited features by assigning a process to an idle level of the processing system and tracking the amount of time the lowest priority or idle process is executing. Accordingly, Applicants respectfully submit Bishop does not teach or suggest

features of embodiments of the present invention directed to determining an execution time of task threads that are not a system thread, let alone features of identifying a system thread identifier, comparing subsequent thread identifiers to the system thread identifier, reading execution time of all threads excluding the system thread until a predetermined event occurs, adding the read execution times, subtracting a total of execution time of a former stored thread from a total time of the added execution times and measuring a quantity of uses of a CPU by dividing the subtracted execution time of the thread by a time period and combinations thereof as recited in claim 8.

For at least the reasons set forth above, Applicants respectfully submit claims 1, 8 and 15 define patentable subject matter. Claims 2-7, 10-14 and 16-26 depend from claims 1, 8 and 15, respectively and therefore also define patentable subject matter for at least that reason as well as their additionally recited features. Claim 9 is canceled without prejudice or disclaimer. Withdrawal of the rejection of claims 1-26 under 35 U.S.C. §102 is respectfully requested.

D. Claims 27-30 are newly added by this Amendment and believed to be in condition for allowance.

### **CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

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Reply to Office Action of July 31, 2003

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Carl R. Wesolowski**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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Enc: Petition for Extension of Time

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